

FILED UNDER SEAL
HIGHLY CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER.

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

WISCONSIN ELECTRIC POWER COMPANY,

Plaintiff,

v.

Case No. 06-C-0515

UNION PACIFIC RAILROAD COMPANY,

Defendant.

DEFENDANT UNION PACIFIC RAILROAD COMPANY'S
MOTION TO EXCLUDE OR LIMIT TESTIMONY
OF PLAINTIFF'S EXPERT THOMAS D. CROWLEY

COMES NOW Defendant Union Pacific Railroad Company ("UP"), by their attorneys, pursuant to Fed. R. Evid. 702, Daubert v. Merrell Dow Pharmaceuticals, 509 U.S. 579 (1993), and related cases, and moves this court to enter an Order excluding or limiting the testimony, exhibits or reports of plaintiff's expert, Thomas D. Crowley, as his proffered testimony is inadmissible under the Federal Rules of Evidence. As specific grounds for this Motion, UP incorporates its Brief in Support filed contemporaneously with this Motion.

WHEREFORE, for the foregoing reasons and those contained in the Brief in Support which is incorporated by reference, defendant Union Pacific Railroad Company respectfully requests that the Court exclude or limit the proffered expert testimony of plaintiff's expert Thomas D. Crowley.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 4, 2008, I electronically filed the above document with the Clerk of Court using the ECF system. The Clerk of Court will send notification of such filings to the following, Matthew W. O'Neill, mwo@ffsj.com, Shannon A. Allen, saa@ffsj.com, Christopher A. Mills, cam@sloverandloftus.com and Frank J. Pergolizzi, fjp@sloverandloftus.com.

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